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2 United States Attorney

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15
16 DANIEL EDWARD ROGERS,

17 Defendant.
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No. CR 95-0196 FMS

VIOLATIONS: 18 U.S.C. § 371 –
Conspiracy; 18 U.S.C. § 922(o) –
Possession and Transfer of Machine
Guns; 26 U.S.C. § 5861(d) – Possession
of Unregistered NFA Firearms; 18
U.S.C. § 545 – Importation Contrary to
Law; 18 U.S.C. § 922(a)(1)(A) –
Importing Firearms Without a License;
18 U.S.C. § 922(a)(4) – Transportation
of Machine Guns and Destructive
Devices; and 18 U.S.C. § 2 – Aiding,
Abetting and Causing.

SAN FRANCISCO VENUE

22
23 SECOND SUPERSEDING INDICTMENT
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1 The Grand Jury charges:

2 COUNT ONE: (18 U.S.C. § 371 – Conspiracy)

3 1. Beginning on a date unknown to the Grand Jury, but no later than on or about
4 January 10, 1994, and continuing to on or about May 15, 1995, both dates being approximate and
5 inclusive, in the Northern District of California, and elsewhere, the defendant

6 DANIEL EDWARD ROGERS

7 did knowingly and intentionally combine, conspire, and agree with others known and unknown
8 to the Grand Jury to commit offenses against the United States, that is, to:

- 9 (a) knowingly and fraudulently import and bring into the United States merchandise
10 contrary to law, to wit, approximately 85 machine guns, 28 pistols and four
11 destructive devices, in violation of Title 18, United States Code, Section 545;
- 12 (b) willfully engage in the business of importing firearms without a federal firearms
13 license by importing more than 100 firearms during this period, in violation of
14 Title 18, United States Code, Section 922(a)(1)(A);
- 15 (c) knowingly transport in foreign commerce machine guns and destructive devices
16 without a federal firearms license, in violation of Title 18, United States Code,
17 Section 922(a)(4);
- 18 (d) knowingly possess and transfer machine guns that had been shipped and
19 transported from a foreign nation to the United States, the possession and transfer
20 not being under the authority of the United States and a State, in violation of Title
21 18, United States Code, Section 922(o); and
- 22 (e) knowingly receive and possess machine guns, knowing them to be machine guns,
23 which machine guns were not registered to the person receiving and possessing
24 them in the National Firearms Registration and Transfer Record, in violation of
25 Title 26, United States Code, Section 5861(d).

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1 MEANS AND METHODS OF THE CONSPIRACY

2 2. It was part of the conspiracy that ROGERS and others acquired machine guns,
3 pistols and destructive devices in Vietnam in order to ship them to the United States for sale.

4 3. It was a further part of the conspiracy that ROGERS and a co-conspirator shipped
5 machine guns, pistols and destructive devices from Vietnam to the United States, for delivery to
6 a supposedly corrupt Customs official so that he could transfer them to purchasers, keep them for
7 his own use, or hold them for ROGERS and the co-conspirator.

8 4. It was a further part of the conspiracy that in order to avoid customs duties and
9 import and firearms licensing requirements, ROGERS and other co-conspirators arranged
10 payments to a supposedly corrupt customs official and others associated with the transportation
11 and inspection of the machine guns, pistols, and other destructive devices.

12 OVERT ACTS

13 5. As part of the conspiracy, and to carry out its objects, ROGERS and his
14 co-conspirators committed the following overt acts, among others, in the Northern District of
15 California and elsewhere:

16 (a) On or about January 10, 1994, a co-conspirator met with a United States Customs
17 Service undercover agent ("the UCA"), who was posing as a corrupt Customs
18 official, and requested the UCA's assistance with smuggling weapons into the
19 United States.

20 (b) Between on or about January 10, 1994 and January 17, 1994, ROGERS traveled
21 from the United States to Bangkok, Thailand, and then to Vietnam.

22 (c) On or about February 3, 1994, ROGERS caused a fax to be sent to a co-
23 conspirator, providing the name "A.T. Ltd." as the company to which cash
24 transfers for sales of weapons should be made.

25 (d) On or about February 11, 1994, a co-conspirator faxed to the UCA a numbered
26 list of approximately 43 types of weapons and ammunition, with their prices.

27 (e) On or about February 14, 1994, a co-conspirator requested that a payment of
28 \$5,000 be sent to him in Seattle, Washington.

- 1 (f) On or about March 6, 1994, a co-conspirator requested that the UCA send him a
2 purchase contract indicating that "some company" had purchased items from
3 "A.T. Ltd. of Thailand."
- 4 (g) On or about April 26, 1994, ROGERS caused a fax to be sent from Vietnam to a
5 co-conspirator with instructions about a shipment of weapons to be sent via KLM
6 flight 880 from Vietnam to San Francisco, California.
- 7 (h) On or about May 11, 1994, ROGERS caused a fax to be sent from Vietnam to a
8 co-conspirator in the United States about the shipment of weapons.
- 9 (i) On or about May 14, 1994, ROGERS shipped or caused the shipment to the UCA
10 of approximately four AK-47 machine guns, six M-16 machine guns, five
11 Thompson machine guns, 10 pistols, and one grenade launcher, via an Air France
12 flight from Vietnam to San Francisco, California.
- 13 (j) On or about May 23, 1994, ROGERS caused a fax to be sent from Vietnam to a
14 co-conspirator asking for confirmation of the second weapons order from the
15 UCA.
- 16 (k) On or about May 24, 1994, a co-conspirator provided to the UCA a bank account
17 number for transferring payment for the second shipment of weapons.
- 18 (l) On or about August 22, 1994, ROGERS caused a fax to be sent from Vietnam to a
19 co-conspirator confirming the date on which a second shipment of firearms would
20 arrive in San Francisco, identifying the firearms, and providing a breakdown of
21 which firearms belonged to ROGERS, a co-conspirator, and the customer.
- 22 (m) On or about August 28, 1994, ROGERS shipped or caused the shipment of
23 approximately 11 M-3 machine guns, 15 Thompson machine guns, 22 M-16
24 machine guns, 20 AK-47 machine guns, three M-79 grenade launchers, two M-60
25 machine guns, and 18 pistols, via an Air France flight from Vietnam to San
26 Francisco, California.
- 27 (n) On or about May 15, 1995, a co-conspirator traveled to the San Francisco area to
28 take possession of firearms he believed the UCA was holding for him and

1 ROGERS.

2 In violation of Title 18, United States Code, Section 371.

3 COUNT TWO: (18 U.S.C. §§ 922(o) & 2 – Possession and Transfer of Machine Guns)

4 On or about May 14, 1994, in the Northern District of California, and elsewhere, the
5 defendant

6 DANIEL EDWARD ROGERS

7 did knowingly possess and transfer, and willfully aid, abet and cause to be possessed and
8 transferred, machine guns that had been shipped and transported from a foreign nation to the
9 United States, the possession and transfer not being under the authority of the United States and
10 any State.

11 In violation of Title 18, United States Code, Sections 922(o) and 2.

12
13 COUNT THREE: (18 U.S.C. §§ 922(o) & 2 – Possession and Transfer of Machine Guns)

14 On or about August 28, 1994, in the Northern District of California, and elsewhere, the
15 defendant

16 DANIEL EDWARD ROGERS

17 did knowingly possess and transfer, and willfully aid, abet and cause to be possessed and
18 transferred, machine guns that had been shipped and transported from a foreign nation to the
19 United States, the possession and transfer not being under the authority of the United States and
20 any State.

21 In violation of Title 18, United States Code, Sections 922(o) and 2.

22
23 COUNT FOUR: (26 U.S.C. § 5861(d) & 18 U.S.C. § 2 – Possession of Unregistered NFA
24 Firearms)

25 On or about May 14, 1994, in the Northern District of California, and elsewhere, the
26 defendant

27 DANIEL EDWARD ROGERS

28 did knowingly receive and possess, and willfully aid, abet and cause to be received and

1 possessed, firearms within the meaning of the National Firearms Act, Title 26, United States
2 Code, Section 5845, including machine guns and a destructive device, knowing them to be
3 machine guns and a destructive device, which were not registered to the defendant or to any other
4 persons receiving and possessing them, in the National Firearms Registration and Transfer
5 Record.

6 In violation of Title 26, United States Code, Section 5861(d) and Title 18, United States
7 Code, Section 2.

8
9 COUNT FIVE: (26 U.S.C. § 5861(d) & 18 U.S.C. § 2) – Possession of Unregistered NFA
10 Firearms)

11 On or about August 28, 1994, in the Northern District of California, and elsewhere, the
12 defendant

13 DANIEL EDWARD ROGERS

14 did knowingly receive and possess, and willfully aid, abet and cause to be received and
15 possessed, firearms within the meaning of the National Firearms Act, Title 26, United States
16 Code, Section 5845, including machine guns and destructive devices, knowing them to be
17 machine guns and destructive devices, which were not registered to the defendant or to any other
18 persons receiving and possessing them, in the National Firearms Registration and Transfer
19 Record.

20 In violation of Title 26, United States Code, Section 5861(d) and Title 18, United States
21 Code, Section 2.

22
23 COUNT SIX: (18 U.S.C. §§ 545 & 2 – Importation Contrary to Law)

24 On or about May 14, 1994, in the Northern District of California, and elsewhere, the
25 defendant

26 DANIEL EDWARD ROGERS

27 did knowingly and fraudulently import and bring into the United States, and willfully cause to be
28 imported and brought into the United States, merchandise contrary to law, to wit, approximately

1 15 machine guns, 10 pistols and one destructive device, which merchandise is subject to
2 forfeiture.

3 In violation of Title 18, United States Code, Sections 545 and 2.
4

5 COUNT SEVEN: (18 U.S.C. §§ 545 & 2 – Importation Contrary to Law)

6 On or about August 28, 1994, in the Northern District of California, and elsewhere, the
7 defendant

8 DANIEL EDWARD ROGERS

9 did knowingly and fraudulently import and bring into the United States, and willfully cause to be
10 imported and brought into the United States, merchandise contrary to law, to wit, approximately
11 70 machine guns, 18 pistols and three destructive devices, which merchandise is subject to
12 forfeiture.

13 In violation of Title 18, United States Code, Sections 545 and 2.
14

15 COUNT EIGHT: (18 U.S.C. §§ 922(a)(1)(A) & 2 – Engaging in Business of Importing
16 Firearms Without a License)

17 Beginning at a date unknown to the grand jury but no later than May 14, 1994, and
18 continuing to on or about May 10, 1995 in the Northern District of California, and elsewhere, the
19 defendant

20 DANIEL EDWARD ROGERS

21 did willfully engage in the business of importing firearms without a federal firearms license by
22 importing firearms totaling in excess of one hundred firearms during this period, and did
23 willfully aid and abet the engaging in such business.

24 In violation of Title 18, United States Code, Sections 922(a)(1)(A) and 2.

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COUNT NINE: (18 U.S.C. §§ 922(a)(4) & 2 – Transportation of Machine Guns and Destructive Device in Foreign Commerce Without a License)

On or about May 14, 1994, in the Northern District of California, and elsewhere, the defendant

DANIEL EDWARD ROGERS

did knowingly transport, and willfully cause to be transported, in foreign commerce machine guns and a destructive device without a federal firearms license.

In violation of Title 18, United States Code, Sections 922(a)(4) and 2.

COUNT TEN: (18 U.S.C. §§ 922(a)(4) & 2 – Transportation of Machine Guns and Destructive Devices in Foreign Commerce Without a License)

On or about August 28, 1994, in the Northern District of California, and elsewhere, the defendant

DANIEL EDWARD ROGERS

did knowingly transport, and willfully cause to be transported, in foreign commerce machine guns and destructive devices without a federal firearms license.

In violation of Title 18, United States Code, Sections 922(a)(4) and 2.

DATED:


A TRUE BILL.


FOREPERSON

4-8-04

KEVIN V. RYAN
United States Attorney


JONATHAN HOWDEN
Chief, OCDEF

(Approved as to form: )
AUSA Scoble

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ **SECOND** INDICTMENT
☒ SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

See Penalty Sheet Attachment

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

See Penalty Sheet Attachment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
 BICE, S/A Kevin Kinnee

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW
DOCKET NO.

MAGISTRATE
CASE NO.

Name and Office of Person
 Furnishing Information on
 THIS FORM

KEVIN V. RYAN

☒ U.S. Att'y ☐ Other U.S. Agency

Name of Asst. U.S. Att'y
 (if assigned)

ANDREW M. SCOBLE

DEFENDANT - U.S.

DANIEL EDWARD ROGERS

DISTRICT COURT NUMBER

CR 95-0196 FMS

DEFENDANT

IS NOT IN CUSTODY

- 1) ☐ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☒ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges } ☐ Fed'l ☐ State
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

PENALTY SHEET ATTACHMENT
Daniel Edward Rogers (CR 95-0196 FMS)

Count 1: **18 U.S.C. § 371 – Conspiracy**

5 years and/or \$250,000; 3 years supervised release; \$50 special assessment

Counts 2 & 3: **18 U.S.C. §§ 922(o) – Possession and Transfer of Machine Guns**

10 years and/or \$250,000 fine; 3 years supervised release; \$50 special assessment

Counts 4 & 5: **26 U.S.C. § 5861(d) – Possession of Unregistered NFA Firearms**

10 years and/or \$250,000; 3 years supervised release; \$50 special assessment

Counts 6 & 7: **18 U.S.C. § 545 – Importation Contrary to Law**

5 years and/or \$250,000; 3 years supervised release; \$50 special assessment

Count 8: **18 U.S.C. § 922(a)(1)(A) – Engaging in Business of Importing Firearms Without a License**

5 years and/or \$250,000; 3 years sup. release; \$50 special assessment

Counts 9 & 10: **18 U.S.C. § 922(a)(4) – Transportation of Machine Guns and Destructive Devices in Foreign Commerce Without a License**

5 years and/or \$250,000; 3 years sup. release; \$50 special assessment